PRESERVED

App. F. IX-4]

Previous References. 1942 ( ) Legis File No. 7-1

Serial Nos.

Later References.

A/s 149-42 (1-5)

94

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for August 1942

SUBJECT.

The Maintenance Orders (Enforcement) Act, 1942.

To
The Compiler, Mysore Gazette,

WD 08999—GPB—500—11-9-41

Order No. R.L 101 Legis 7-42 1 dated 22nd July, 1942

publishes the Maintenance Orders (Enfs...) Act, 1942, of Act No. XXVII E. of 1942.)

EXTRACT FROM C.B. FILE NO. 125 of 37-325

6) The Resident requests that an Act on the lines of the Maintenance Orders (Enforcement) Act in British India may be put into force in the State on or before retrocession and to forward it to the Residency for arranging for reciprocity. We may agree to this.

Id/- C.S. 11-1-40.

First Member)

Id/- N.M. 11-1-40.

D e w a n)

Id/- M.I. 12-1-40.

The file will be passed on to the Law Section for taking action as regards para 6 of the notes.

Id/- C.S. 15-1-40.

The question of having such an enactment in Mysore was considered as far back as 1923 on a reference from the Residency. A Bill was drafted and the statement of general principles of the Bill was placed before the Representative Assembly in 1927 which however voted against the measure. Nevertheless, the Bill itself was introduced in the Legislative Council and referred by it to a Select Committee.

At this stage, further action was dropped on the following among other grounds:-

1) The Bill originated at the suggestion of the Residency with a view to obtain reciprocity between Mysore and England. Later on, it was discovered th the English Act did not permit of such reciprocity with Indian States.

Maintenance Orders (Enforcement) Bill.

File No. of 194 . | General and Revenue Secretariat

Serial No.

2) Maintenance orders passed by Magistrates under section 488 of the Criminal Procedure Code were the more important orders coming within the purview of the proposed enactment. The Government of India were unwilling to allow our Magistrates to exercise such jurisdiction over European British subjects.

3) The Bill had not been taken up for a space of 2 years and had therefore lapsed.

At present the only point which will require consideration would be the nature of the jurisdiction exercisable over European British subjects by the Magistrates in Mysore.

As it is at the suggestion of the Residency that we should enact such a measure in order to preserve (after relocation) the reciprocity now obtaining between the Civil and Military Station and British India which can be done only in respect of the whole of an Indian State and not of any specified part thereof, (that action is now being taken) the Bill may perhaps be proceeded with now and the question of European British Subjects decided thereafter. There is provision for this in the proposed Bill, as clause 8 provides that the powers exercisable by the Court are such as may be prescribed.

The draft Bill[x] which was introduced in the Legislative Council in 1927 may perhaps be adopted now.

A revised statement of general principles is put up.

40. This history of the Bill shows that it has been a controversial one and as such it may not admit of being passed at a single

ing. The passage of the Bill would see into law
bers of much practical utility unless ours con
Vested criminal jurisdiction over European
jects. On a former occasion the Govt of Sud
as not prepared to do this (Flag K.). But a
his Bill is to be revived at their request - ai
dly for the benefit of the European
munity in the retroceded areas, it is for
siderations whether we may not avail o
is opportunity and urge on the Govt of S
imperative need of conceding jurisdict
s European British subjects at least
ut required for making the Act work
reference on this point may perhaps
s to the Residency, and the Bill placed

Maintenance orders Enforcement Bill

File No. 191/41 of 194

General and Revenue Secretariat.

Serial No.

It is submitted that a reference to the Residency on the question of jurisdiction of Mysore Courts over European British Subjects appears unnecessary in connection with this Bill.

Proceedings under this Act in respect of European British subjects will always be instituted only by European British subjects (since the Act relates to maintenance proceedings) and to the extent that jurisdiction is denied to our Courts, the persons to suffer will be only European British Subjects. Further the provisions of the Act are likely to be invoked only very rarely. No case whatever of a transfer of a decree for maintenance in respect of a European British Subject even under the ordinary law appears to have arisen so far.

A draft Bill is therefore drafted on the lines of the British Indian Act and the Bill that was placed before the Leg in 1923. This with if approved be placed before the R.A. this October. The Residency have suggested that the Bill may be passed on or before retrocession.

4.9.41

Secy
R & L

5-9-41

Law Secy

SECY. LAW DEPT.
6 SEP. 1941
GT OF MYSORE

Maintenance Orders (Enforcement) Bill

General and Revenue Secretariat | File No. | of 194 | [App. F. III-2

Serial No.

OFFICE OF THE
LEGISLATIVE COUNCIL
SEP 26 1940
No. 1071

Sitting. The passage of the Bill moreover into law would not be of much practical utility unless our courts are ~~given~~ vested with criminal jurisdiction over European British subjects. On a former occasion the Govt of India were not prepared to do this (Flag K). But now as the Bill is to be revived at their request - and mostly for the benefit of the European community in the reto-ceded area, it is for consideration whether we may not avail ourselves of this opportunity and urge on the Govt of India the imperative need of conceding jurisdiction over European British subjects at least to the extent required for making the Act workable. A reference on this point may perhaps be made to the Residency, and the Bill placed before the reconstituted Chambers.

JNW
26/9

Law Secy)

I Member)

Hm
26/9/40
JNW
26/9

RLW
27/9/40

Hm
27/9/40
JNW
27/9

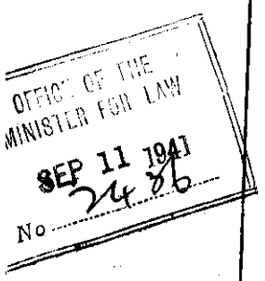
Maintainance Order Enforcement Rules

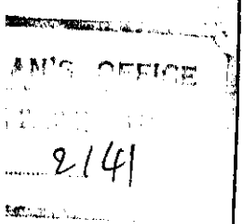
General and Revenue Secretariat
R. A. & L. C.

File No. 191/N of 194

App. F. III-2

Serial No.





May be approved.

Minister for Law.)

Hm
2
10/9/41

BKR
10.9.41

11/9

This is a council matter and may be disposed of by circulation.

Dewan)

Hm
2
11/9/41.

BKR
12.9.41

I shall be glad to speak to the Law Member

RLM
13/9/41

Yes
RLM
15/9/41

For favour of circulation

Chief Secy
M.C.)

Hm
2
16/9/41.

BKR
16.9.41

Initialled with a circulation memo.
16/9/41

Signed
115
1769

For Disposal by Circulation.

No. C. 240

9.L.1941-42

GENERAL AND REVENUE SECRETARIAT

Council Matter.

Subject

Maintenance Orders (Enforcement) Bill.

Circulated to the Council of Ministers.

By Order,

Chief Secretary to Government.

16th September 1941.

1576 17.9.41 **Minister for Finance and Revenue.** 1, 9. 41

Minister for Law. (Seen)

1861 17.9.41 **Minister for Education.** 17. 9. 41

1745 18.9.41 **Minister for Local Self-Government and Public Health.** 18.9.41/Law Secy. (with Compliments) 19.9.41

19.9.41.

19.9.41

Maintenance Orders Enforcement Bill.

General and Revenue Secretariat
R. A. & L. C.

File No. 263/41 of 194

[App. F. III-2

Serial No.

LAW OFFICE
25. SEP. 1941
No. 2569

OFFICE OF THE MINISTER FOR LAW
SEP 25 1941
No. 2961

A. D. F. N. as put up.

Secy 29.9.41
RA & LC)

BKR 24.9.41

Law Secy)

D. F. N. is submitted

Minister for Law) 24/9/41.

N. Signed by Minister 24.9.41

Final Note by the Minister for Law.

THE MAI[illegible]NT BILL.

During the discussions between the Residency and this Government on the question of retrocession of the Civil and Militar Station, Bangalore, the Residency suggested that an Act on the lines of the Maintenance Orders (Enforcement) Act of British Ind may be put into force in Mysore on or before retrocession. They stated that the Government of India would be able under the - British Indian Act to arrange for reciprocity only if an Act wer put in force in Mysore providing for enforcement within the Stat of Maintenance Orders made by the Courts in British India. This has been agreed to by this Government.

When a similar Bill was brought up in 1927, the object was provide for reciprocity with England and as this could not be ha under the English statute which did not allow of such arrangemen with Indian States, no further action was taken on it and it was allowed to lapse.

At present, however, as reciprocity is intended primarily with British India, there is no legal bar to such reciprocity, is accordingly proposed to place the Bill drafted for this purpo before the Representative Assembly at its ensuing session and introduce it thereafter in the Legislative Council.

The Dewan and the other Ministers are agreeable to these pr posals. I solicit the gracious sanction of His Highness to the proposals.

MINISTER FOR LAW.

Camp: Mysore,
25th September 1941

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Law on the subject of the proposal to place before the Representative Assembly at its next session and then to introduce in the Legislative Council the Maintenance Orders Enforcement Bill for His Highness's gracious approval.

A Madhava Rau

Mysore,
25th September 1941.

DEWAN.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Proposal to place before the Representative Assembly at its next session and then to introduce in the Legislative Council the Maintenance Orders Enforcement Bill.

Order.

KW
30/9/'41.

:neral and Revenue

Secretariat.

SUBJECT :—

Proposal to place before the Representative Assembly at its next session and then to introduce in the Legislative Council the Maintenance Orders Enforcement Bill.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

...L..a..W.....Department.

2110 9.10.41

Minister for Finance and Revenue

3372 7.11.41

Minister for Law. 7-10-41

2141 8.10.41

Minister for Education. 8.10.41

2134 8.10.41

Minister for Local Self-Govt. and Public Health. 8.10.41

Law. Secy. with Compliments.

WD 02878—GPB—300—26-6-41

9/10/41

9/10/41

Maintenance Orders Enforcement Bill

General and Revenue Secretariat | File No. 91 of 194 | [App. F. III-2

Serial No.

DEWAN'S OFFICE
10. NOV. 1941
NO 3894.

GOVT. LAW DEPT.
3 NOV. 1941
GOVT OF MYSORE

OFFICE OF THE
NOV 4 1941
No.

OFFICE OF THE
ASSTR FOR LAW
NOV 7 1941
4393

The Bill was placed before the Ass. Legal Adviser & the general principles of the Bill were approved there.

It is for orders if the Bill may be published under rule 36 of the Mysore Legislative Rules. & that can be taken up for leave to introduce is necessary in the L.C.

3.11.41

Law Secy)

May be approved

Minister for Law.)

Hm 2 3/11/41.

3.11.41

Please put up a clean Statement of O & R.

4/11

Hm 2 5.11.41.

A Statement of Objects and Reasons on the lines of the St. of Principles is put up. You publish the Bill and the Statement under rule 36 if so orders.

7.11.41

Law Secy)

May be approved

Minister for Law & Dewan)

Hm 2 7.11.41.

7.11.41

8/11

NOTE—Contn. Sheet.

Mr D.S.

9/11/41 Hm 2

Maintenance Orders (Enforcement) Bill

863

Legis File No. | of 194 . | General and Revenue Secretariat.

Serial No.

Send with draft notification for approval.

Done 11/11/41

Issue 11/11/41.

11.11.41

The Compiler, Reprint Gazette

Issued No RL 921 dated 11.11.1941

Orders the publication of the Bill in the Gazette under Rule 36 of the Reprint Legislative Rules Orders.

In 1927 when the Bill was introduced in the Legislative Council, it was referred to a Select Committee. The following motion is therefore suggested -

1. Motion that the Bill published under rule 36 of the Reprint Legislative Rules be referred to a Select Committee consisting of ——— . (The Minister in whose department the Bill relates and the Member who introduced the Bill should be members of the Committee - their names need not be included in the motion : S.O. 32 (1))

Mover : Minister for Law

Seconder Law Secretary

12.11.41

Law Secy)

May be approved

Minister for Law)

12/11/41

12.11.41

19/11

17.11.41

Please include motion in agenda

18.11.41

Mr F.A.S.

Noted 18.11.41

SECY. LAW
12 NOV.
GOVT OF
OFFICE OF TH
MINISTER FOR
NOV 15 1
No 4865

OFFICE OF THE
MINISTER FOR LAW
NOV 13 1941
No. 4688

Maintenance Orders Enforcement Bill

General and Revenue Secretariat
R. A. & L. C.

File No. 263/N of 194 .

App. F. III-2

Serial No.

The Bill was introduced in the Legislative Council and referred to a Select Committee Consisting of :—

1. Minister for Law
2. Mr. Mudaliyar V Lakshmanaswamy
3. " Rahim Srinivasa Iengar
4. " T. Madiah Gowda
5. " O.S.M. Sheriff.
6. " H. V. Narayana Rao.

The next Session of the Legislative Council is fixed for the ~~15th~~ 22nd June 1942

It is for orders when the meeting of the Select Committee may be called for

16.2.42
Secy (RA & LC)

The meeting may perhaps be held during the last week of March or the first week of April.

17.2.42
Law (Minister)

The meeting may be convened for 20-3-42 (Friday) at 1 P.M.

18/2

19.2.42

Maintenance Orders Enforcement Bill

File No. 263/RL of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

Submitted,

A draft O.M. intimating the members of the Select Committee that the meeting of the Select committee meeting will be held on Friday 20th March 1942 ~~in the Secretariat committee~~ is put up for perusal

BVN.
27-2-42

BVN
27/2

BKR
28.2.42

ued Nos 4125-30 R.A and Nos 4131-32 R.A
members of the Select committee, Office
anch and R.A. Office respectively - intimating
t the Select committee meeting will be held
riday 20th March 1942

Submitted for information

BVN.
5/3/42

BKR
5-3-42

e Select committee met on 20th March
2 at 1.P.M. All the members of the
mittee, except Mr. Belur Srinivasa
ngar, were present.
The several clauses of the Bill were
e through, and it was decided to
d the words "the Indian States" in the

Serial No.

and such an States" in the definition of 'Reciprocating Territory'.

A report was drafted and signed by all the members present.

If approved, three copies of the report will be sent to the R.A.& L.C. Office for further action

BKR

23.3.42

Maintenance Orders (Enforcement) Bill

13

General and Revenue Secretariat
R. A. & L. C.

File No. of 194 App. F. III-2

263/RL

Serial No.

Submitted.

Under Standing Order 36 of the Mysore Legislative Council Rules and Standing Orders the report of the Select Committee on the Maintenance Orders (Enforcement) Bill has to be published in the Gazette and printed copies of the report should be made available for the use of every member of the Council.

Draft Notification publishing the report of the Select Committee is submitted for approval.

BVN
25/3/42

Done now
BVR
25-3-42

To.

The compiler, Mysore Gazette

Notification No LD 1 L.C. dated 25-3-42

Notifies the report of the Select committee on the Maintenance Orders (Enforcement) Bill

Reference is invited to S.O. 36 of the Legislative Council standing orders. It appears to contemplate the publication of the amended Bill in every case. In the present instance the Bill as amended has not been published. Action will be taken in the matter. Tho' the report has been published, there may be no harm in publishing it again with the amended Bill.

The draft put up may be approved.

Seen
MA 26

26/3/42

Done
BVR
26.3.42

Maintenance Orders (Enforcement) Bill

File No. of 194 .

263/RL

Issued Notification No 7271 L.C. dated 8-6-42 to the Compilation Mysore Gazette directing publication of the Select Committee Report on the Maintenance Orders (Enforcement) Bill and the Bill as amended by the Select committee in the next issue of the Gazette

Submitted —

As indicated above, action has been taken to have the report of the Select Committee & the Amended Maintenance Orders (Enforcement) Bill published in the Gazette dated the 11.6.1942.

Since it is proposed to have the Bill enacted into law, at the ensuing budget session of the L.C. the following Motions in respect of the bill are suggested for consideration.

1) Motion that the report of the Select Committee & the bile as amended by it be taken into consideration.

Mover - Minister for Law,

2) Motion that the bile be passed

Mover - Minister for Law.

DSD
9.6.42 —
BSN
10/6

BKR
10.6.42

Law (Minister)

Ans
10/6

The Bill as reported by the Sc. was considered and passed in the L.C. today.

Please put up a D.F.N.

SDS
22.6.42

Maintenance Orders Enforcement Bill

14

Continuation Sheet. File No. Current No. 20 BKR of Page.

OFFICE
MYSORE
JUL 1 1942
No

The Bill as reported by the Select Committee was passed by the Council during its Recent Session

A D S N is put up for approval

Sd/- 29.6.42

Secy
(Leg)

BKR
29.6.42

Law Secy)

Law Minister) Sd/- 30.6.42

BKR
30.6.42

Sd/- 1/7

A.D.S.N. is submitted for approval

W.
2.7.42
2/7

Sd/- 2.7.42

Secy
(Leg)

BKR
3.7.42

Law Secy)

Minister) Sd/- 3.7.42

BKR
3.7.42

SECY. LAW DEPT. 5823 23 JUNE 1942 GOVT OF MYSORE

SECY. LAW DEPT. 105 3 JULY 1942 GOVT OF MYSORE

DIWAN'S OFFICE 3. JUL. 1942 NO. 74.

Final Note by the Minister for Law.

Subject.—

Promulgation of the Maintenance Orders Enforcement Bill.

On the 30th of September 1941, His Highness was graciously pleased to approve of action being taken to enact the Maintenance Orders Enforcement Bill. The Bill was accordingly placed before Representative Assembly in October 1941 and approved by that Chaml The Bill was thereafter introduced in the Legislative Council in December and was referred to a Select Committee. The Bill as reported by the Select Committee was considered by the Legislative Council during its present session and was passed by it.

A copy of the Bill as finally passed by the Council and sig by the President is submitted to His Highness the Maharaja, under Standing Order 45 of the Legislative Council Standing Orders.

I solicit the gracious sanction of His Highness to promulga the Bill into law.

Bangalore,
1st July, 1942.

MINISTER FOR LAW.

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Law on the subject of the Maintenance Orders Enforcement Bill, for His Highness's gracious approval.

M. Visvesvaraya

Bangalore,
4th July 1942.

D E W A N,

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation into law of the Maintei Orders Enforcement Bill.

Order.

General and Revenue

Secretariat.

C 25

SUBJECT :—

Promulgation into law of the Maintenan Orders Enforcement Bill.

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or ndications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules for the conduct of business of Council in the Mysore Government Business Rules.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

.....Law.....Department. 10-7-42

204
10.7.42. Minister for Finance and Revenue. 10

412
11.7.42 Minister for Law. 12/7/42

219
10.7 Minister for Education. 11.7.42

420
11.7 Minister for Local Self-Govt. and Public Health. 11.7.42

Law Secy
W/C

WD 06360—GPB—500—23-3-42

14-7-42

14.7.42 14.7.42

The Maintenance Orders (Enforcement) Act, 194

Continuation Sheet. File No. Current No. Page.

The gracious assent of His Highness was accorded on the 7th day of July 1942 to promulgate the Bi into Law

A draft G.O. directing publication as Act N XXVIII of 1942 is Submitted for approval.

20-7-42
BXR
29/7.

Secy (H. & L.)
20.7.42
BXR
20.7.42

Law Secy)
Cus
20-7-42

Secy
BXR
21.7.42

Issued No R.L 101 Regis 7 42-1 dated 22nd July 1942 to the Compiler, Mysore Gazette, directing publication of Act No XXVIII of 1942

The file may be recorded

28-7-42

The Act has appeared in the Gazette of the 23rd July 1942.

Page IV

SECY. LAW DEPT. 760 20 JULY 1942 GOVT OF MYSORE

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

4 copies

No. 921 RL

General and Revenue Secretariat,
Dated, Bangalore, 11.11.1941.

Notification.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the gazette of the accompanying Maintenance Orders (Enforcement) Bill, together with the statement of objects and reasons.

By Order,

11.11.41

for Secretary to Government,
Law Department.

11 Nov 41

The Compiler, Mysore Gazette, for publication in Part IV of the gazette and supply of 350 copies to the Secretariat.

Memo No. Dated, Bangalore, November 1941.

Copy of the above is forwarded with compliments to the Secretary, Legislative Council, for information.

By Order,

For Secretary to Government,
Law Department.

MAINTENANCE ORDERS (ENFORCEMENT) BILL.

Statement of Objects and Reasons.

.....

Decrees for maintenance and orders under section 488 of the Criminal Procedure Code passed in one country cannot, in all cases, be enforced in another. To facilitate such enforcement of maintenance orders, an Act was passed in the United Kingdom in 1920 and in British India in 1921.

These Acts provide a simple procedure for the mutual enforcement of orders of maintenance between different parts of His Majesty's dominions and territories under His Majesty's protection.

This Bill is intended to afford facilities for such reciprocity with British India and other territories under His Majesty's protection.

The statement of general principles of a Bill drafted for a similar purpose was placed before the Representative Assembly in 1927 and the Bill was introduced in the Legislative Council the same year. But as it was discovered that the primary object of the measure, then introduced, namely, reciprocity with England, could not be had under the English Statute which did not allow of such arrangement with Indian States, no further action was taken on it. At present, reciprocity is intended primarily with British India and as there is no legal bar to such reciprocity, it is intended to secure the legal sanction for such an arrangement by enacting this measure.

The clauses of the Bill explained.

MAINTENANCE ORDERS (ENFORCEMENT) BILL.

Statement of General Principles.

Decrees for maintenance and orders under section 488 of the Criminal Procedure Code passed in one country cannot, in all cases, be enforced in another. To facilitate such enforcement of maintenance orders an Act was passed in the United Kingdom in 1920 and in British India in 1921.

These Acts provide a simple procedure for the mutual enforcement of orders of maintenance between different parts of His Majesty's dominions and territories under His Majesty's protection.

This Bill is intended to afford facilities for such reciprocity with British India and other territories under His Majesty's protection.

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is intended to secure the legal sanction for such an arrangement by enacting this measure.

18. MAINTENANCE ORDERS (ENFORCEMENT) BILL.

Statement of Princip

Decrees for maintenance and orders under section 488 of the Criminal Procedure Code passed in one country cannot, in all cases, be enforced in another. To facilitate such enforcement of maintenance orders, an Act was passed in the United Kingdom in 1920 and in British India in 1921.

These Acts provide a simple procedure for the mutual enforcement of orders of maintenance between different parts of His Majesty's dominions and territories under His Majesty's protection.

This Bill is intended to afford facilities for such reciprocity with British India and other territories under His Majesty's protection.

The statement of general principles of a Bill drafted for a similar purpose was placed before the Representative Assembly in 1927 and the Bill was introduced in the Legislative Council the same year. But as it was discovered that the primary object of the measure, then introduced, namely, reciprocity with England, could not be had under the English Statute which did not allow of such arrangement with Indian States, no further action was taken on it. At present, reciprocity is intended primarily with British India and as there is no legal bar to such reciprocity, it is intended to secure the legal sanction for such arrangement by enacting this measure.

The Maintenance Orders Enforcement Bill.

A Bill to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's dominions and Protectorates and *vice versa*.

Whereas it is expedient to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's dominions and Protectorates and *vice versa*;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Maintenance Orders Enforcement) Act, 194.

(2) It extends to the whole of Mysore.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"court of summary jurisdiction" means the Court of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the place in which the maintenance order is made;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Act;

"proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies; and

"reciprocating territory" means any part of His Majesty the King Emperor's dominions in respect of which this Act for the time being applies.

Reciprocal arrangements.

(1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty the King Emperor's dominions for the enforcement within that

rt of maintenance orders made by Courts in Mysore, the
vernment may by notification in the official Gazette declare
at this Act applies in respect of that part of His Majesty the
ng Emperor's dominions and thereupon it shall apply accor-
ngly.

(2) The Government may, by like notification, declare that
is Act applies in respect of any British Protectorate, or
respect of any State in India, and where such a declaration has
en made, this Act shall apply as if such Protectorate or State
re a reciprocating territory.

4. Where a maintenance order has, whether before or after
e passing of this Act, been made against any person by any Court
any reciprocating territory, and a certified copy of the order
s been transmitted by the proper authority of that territory to
e Government, the Government shall send a copy of the order
the prescribed officer of a Court in Mysore for registration,
d on receipt thereof, the order shall be registered in the pres-
ibed manner.

5. Where a Court in Mysore has, whether before or after
e commencement of this Act, made a maintenance order against
y person, and it is proved to that Court that the person against
om the order was made is resident in a reciprocating territory
e Court shall send to the Government for transmission to the
oper authority of that territory a certified copy of the order.

6. (1) Where application is made to a Court of summary
risdiction in Mysore for a maintenance order against any
rson, and it is proved that that person is resident in a reci-
ocating territory, the Court may, in the absence of that person,
after hearing the evidence it is satisfied of the justice of the
plication, make any such order as it might have made if that
rson had wilfully neglected to attend the Court; but in such
se the order shall be provisional only and shall have no effect
less and until confirmed by a competent Court in such
ritory.

(2) The evidence of every witness who is examined on
y such application shall be reduced to writing, and such
position shall be read over to and signed by him.

(3) Where such an order is made, the Court shall send to
e Government for transmission to the proper authority of the
ciprocating territory in which the person against whom the
der is made is alleged to reside, the depositions so taken and a
rtified copy of the order together with a statement of the
ounds on which the making of the order might have been
posed if the person against whom the order is made had been
ly served with a summons and had appeared at the hearing
d such information as the Court possesses for facilitating the
ntification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a
urt in a reciprocating territory for confirmation, and the order
s by that Court been remitted to the Court of summary
risdiction which made the order for the purpose of taking
rther evidence, that Court shall, after giving the prescribed
ice, proceed to take the evidence in like manner and subject
the like conditions as the evidence in support of the original
plication.

(5) If it appears to the Court hearing such evidence that
order ought not to have been made, the Court may rescind
order, but in any other case, the depositions shall be sent to
Government and dealt with in like manner as the original
positions.

(6) The confirmation of an order made under this section
ll not affect any power of a Court of summary jurisdiction to
y or rescind that order.

Provided that, on the making of a varying or rescinding
der, the Court shall send a certified copy thereof to the Govern-
ent for transmission to the proper authority of the reciprocating
ritory in which the original order was confirmed or to which

it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the Court, after hearing the evidence, may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to which the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, nd may adjourn the proceedings.

(6) Where a provisional order has been confirmed under his section, it may be varied or rescinded in like manner as if it ad originally been made by the confirming Court, and where n an application for rescission or variation the Court is satisfied hat it is necessary to remit the case to the Court which made he provisional order for the purpose of taking any further vidence, the Court may for the purpose send a certified copy of he record to the Government for transmission to that Court hrough the proper authority for the reciprocating territory and ıay adjourn the proceedings.

8. A Court of summary jurisdiction in which an order as been registered under this Act or by which an order has een confirmed under this Act and the officers of such Court shall ave such powers and perform such duties, for the purpose of nforcing the order, as may be prescribed.

9. A Court, in registering or confirming an order for maintenance in accordance with the provisions of this Act, shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional

and other costs and charges.

order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court

Proof of documents signed by officers of Court.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed

A Bill to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa.

Whereas it is expedient to facilitate the enforcement in Mysore of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa; it is hereby enacted as follows:-

1. (1) This Act may be called the Maintenance Orders Enforcement Act, 19.

(2) It extends to the whole of Mysore.

2. In this Act, unless there is anything repugnant in the subject or context,--

"Court of summary jurisdiction" means the Court of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the part of His Majesty's Dominions in which the maintenance order is made;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependant(s) of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Act;

"proper authority" means the authority appointed by, or under the law of, a reciprocating territory, to receive and transmit documents to which this Act applies; and

Maintenance Orders Enforcement Bill.

"reciprocating territory" means any part of His Majesty's Dominions in respect of which this ~~Regulation~~ Act for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty's Dominions for the enforcement within that part of maintenance orders made by courts in Mysore, the Government may by notification in the Official Gazette ~~of Mysore~~ declare that this ~~Regulation~~ Act applies in respect of that part of His Majesty's Dominions and thereupon it shall apply accordingly.

(2) The Government may, by like notification, declare that this ~~Regulation~~ Act applies in respect of any British Protectorate, or in respect of any State in India, and where such a declaration has been made, this ~~Regulation~~ Act shall apply as if such protectorate or State were a reciprocating territory.

Registration in Mysore of maintenance orders in other parts of His Majesty's Dominions.

4. Where a maintenance order has, whether before or after the passing of this ~~Regulation~~ Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Government, the Government shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and on receipt thereof, the order shall be registered in the prescribed manner.

Transmission of maintenance orders made in Mysore.

5. Where a Court in Mysore has, whether before or after the commencement of this ~~Regulation~~ Act, made a maintenance orde against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the Government for transmission to the proper authority of that territory, a certified copy of the order.

Powers of summary Courts to make provisional maintenance

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any

orders against persons resident in His Majesty's Dominions.

person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by, him.

(3) Where such an order is made, the Court shall send to the Government for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case, the depositions shall be sent to the Government and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a court of summary ~~of~~ jurisdiction to vary or rescind that order;

Provided that, on the making of a varying or rescinding order, the court shall send a certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under Sub-Section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the

Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the court after hearing the evidence may seem just;

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for recission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may

for the purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority for the reciprocating territory and may adjourn the proceedings.

nforcement of maintenance orders.

8. A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

ayment of harges for ransmission sums award- as main- nance and her costs and arges.

9. A court in registering or confirming an order for maintenance in accordance with the provisions of this Act shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Regulation, and in particular may make rules for the levy of the costs or charges for anything done under this ~~Regulation~~ Act and for all matters which are directed or permitted to be prescribed.

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

.....

.....

Section

File No.

Serial No.

No. 4125-30-R.A.

Diary No. of letter replied to .....

To

Official Memorandum

General and Revenue Secretariat
R. A. & L. C.
( )

A meeting of the Select Committee to consider the Maintenance Orders (Enforcement) Bill will be held on Friday, the 20th March 1942 at 1 p.m. in the Chambers of the Minister for Law & Public Offices, Bangalore

Date of issue 3.3.42.

Signed by M. B. K. Ramakrishnaiya

By Order

B.K.R.

Secretary to the Committee

To,

The Members of the Committee

List of enclosures .....

Copy to 4131-R.A. and 4132-R.A.

Copied by .....

1) Office Branch, G.R.S. for making the necessary seating arrangements

Examined by .....

2) R.A. & L.C. Office to depute a reporter to report the proceedings & to make the necessary lunch arrangements

MM. 14

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Office of the Secretary,
Representative Assembly And Legislative Council,

No: 4125-30-R.A. Bangalore, Dated, 3rd March February 1942.

OFFICIAL MEMORANDUM

A meeting of the Select Committee to consider the Maintenance Orders (Enforcement) Bill will be held on Friday the 20th March 1942 at 1 P.M. in the Chambers of the Minister for Law, Old Public Offices, Bangalore.

By Order,

B K Ramakrishnaiya

Secretary to the Committee.

To

The Members of the Committee.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Office of the Secretary,
Representative Assembly And Legislative Council,

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By Order,

B.K. Ramakrishnaiya

Secretary to the Committee.

To

The Members of the Committee.

No. 4131. R.A. and 4132. R.A.

Copy to ~~Asso~~.

(1) Office Branch, G.H.S. for making the necessary seating arrangements.

(2) H.A. & L.C. Office to depute a reporter to report the proceedings and to make the necessary lunch arrangements.

Fair Draft)

G. R. S. III—3]
R. A. & L. C.

263/42

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

MAR 18 1942
9210

The file is put up for perusal.

The Select Committee meeting is fixed for 1 P.M. on the 20th inst.

BKR
18.3.42

Law Minister)
20/

~~Home Secretary~~

We the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'the Indian States' in the preamble, and the words 'Protectorates and Indian States' in the definition of 'reciprocating Territory' so as to make it clear that the facilities created by the Act are reciprocally available in regard to all such dominions, Protectorates or States

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

B. Sivaraman

Mohammad Ismail

Thanappa

T. T. Krishnamachari

Shankar Dayal Sharma

H. V. Kamath

The Maintenance Orders Enforcement Bill be referred to a Select Committee consisting of:

Mr. M.N. Lakshminarayanappa

" Belur Srinivasa Iyengar

" T. Madiah Gowda

" O.S. Naerulla Sheriff

" H.V. Narayana Rao

and the Mover.

The Maintenance Orders (Enforcement) Bill.

Sir,

I beg to introduce the Maintenance Orders (Enforcement) Bill and to move that the Bill published under rule 36 of the Mysore Legislative Rules be referred to a select committee consisting of*

This is not the first time that a Bill which permits of the enforcement in Mysore of maintenance orders made outside it and vice versa has been brought up before this House. ~~Some of the members may be aware that~~ In 1927 a Bill which was almost identical with the one now before the House was introduced in this Council. It was referred to a select committee but was later dropped. The primary object with which the measure was then introduced was to provide for reciprocity with England in the enforcement of maintenance orders ~~with England~~. But after the Bill was introduced in the Legislative Council it was discovered that the English Statute on this question did not permit of such arrangement with Indian States. It was therefore considered unnecessary to proceed further with the Bill. The intention with which the Bill is ~~at present~~ now brought up is ~~a~~ different ~~one~~. It is to provide for reciprocity with British India. Under the British Indian Act of 1921 such reciprocal arrangements ~~are~~ are possible with an Indian State which has an enactment to provide for such reciprocity. ~~As~~ The Bill is drafted however in general terms so as to ~~it~~ provides ~~not~~

~~only for arranging for~~ reciprocity with any country with British India but also with any other country which by legislation permits of such reciprocal arrangements with Mysore. The object of providing for reciprocity is to help the persons entitled to the benefit of maintenance orders to enforce it ~~in some other place where~~ against the person ~~against whom~~ liable under the ~~maintenance~~ order ~~is made~~ even though he may be residing in another jurisdiction, without having to ~~be put to the trouble of taking fresh steps in this direction~~ file a fresh suit there. The measure is purely an enabling one, ~~and permitting as it does of reciprocal arrangements cannot be termed "one-sided" or "inequitable"~~. Maintenance orders of ~~those~~ only other countries ~~alone~~ will be enforced in Mysore ~~in which~~ only where maintenance orders passed in Mysore are similarly capable of enforcement there.

The Representative Assembly has unanimously approved of the principles of the Bill, ~~and~~ I hope it will ~~have~~ meet with a similar acceptance in this House also.

(Enforcement)
The Maintenance Orders (xxxxxxxxx) Bill.

Sir,

I beg to introduce the Maintenance Orders (Enforcement) Bill and to move that the bill published under rule 36 of the Mysore Legislative Rules be referred to a Select Committee consisting of

* * * * * * * * * *

This is not the first time that a bill which permits of the enforcement in Mysore of maintenance orders made outside it and vice versa has been brought up before this House. In 1927 a bill which was almost identical with the one now before the House was introduced in this Council. It was referred to a select committee but was later dropped. The primary object with which the measure was then introduce was to provide for reciprocity with England in the enforcement of maintenance orders. But after the bill was introduced in the Legislative Council it was discovered that the English Statute on this question did not permit of such arrangement with Indian States. It was therefore considered unnecessary to proceed further with the Bill.

The intention with which the Bill is now brought up is differen It is to provide for reciprocity with British India. Under the Britis Indian Act of 1921 such reciprocal arrangement is possible with an Indian State which has an enactment to provide for such reciprocity. The bill is drafted however in general terms so as to provide reciprocity not only with British India but also with any other country which by legislation permits of such reciprocal arrangement with Mysore. Th object of providing for reciprocity is to help the persons entitled to the benefit of maintenance orders to enforce it against the person liable under the order even though he may be residing in another jurisdiction without having to file a fresh suit there. The measure is purely an enabling one. Maintenance orders of other countries will be enforced in Mysore only when maintenance orders passed in Mysore are similarly capable of enforcement there.

The Representative Assembly has uanimously approved of the

G.R. S. III– 3]
R. A. & L. C.

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

SUBMITTED.

A copy of the Proceedings of the Select committee on The Maintenance Order Enforcement Bill held in the Chambers of the Minister for Law, on 20th March 1942 is submitted herewith.

23/3/42

23/3.

23.3.42

Proceedings of the Select Committee on The Maintenance Orders Enforcement Bill held in the Chambers of the Minister for Law, Public Offices, Bangalore, on 20th March 1942 at 1 PM.

Present

Rajasevaprasakta
A.V. Ramanathan, B.A. (CHAIRMAN)

Members.

O.S. Nasrulla Sheriff, Esq., M.A.(Litt.) LL.B.,
T. Madiah Gouda, Esq., B.A., LL.B.
H.V. Narayana Rao, Esq., B.A., LL.B.,
Mirle N. Lakshminaranappa, Esq., B.A., LL.B.,

Mr. B.K. Ramakrishnaiya, M.A., LL.B. (Secretary).

Absent

Belur Srinivasa Iyengar, Esq., B.A,, B.L.

Before proceeding with the Bill para by para, the CHAIRMAN brought to notice that there were two suggestions made, namely, first that 'Indian States' should be added to the preamble. and 'or protectorate or of th Indian State' to be added in the definition of the term "reciprocating territory", and second, in clause in the matter of transmission to the proper authority a reciprocating territory a certified copy of the orde an application should be made by the party concerned. The question now for consideration was whether such an order should be communicated to the authority concerne automatically, or on application.

Mr. O.S.NASRULLA SHERIFF was in favour of communicating the order automatically, rather than doing it or an application.

Mr. T. MADIAH GOWDA stated that as the first para

did not form part of the Bill, it might be omitted. He further suggested that instead of saying that it helps to facilitate the enforcement in Mysore of maintenance orders made in his Majesty the King Emperor's dominions, it would be better to say that this Act was made to facilitate the enforcement in the Dominions of maintenance orders made in Mysore.

The CHAIRMAN stated that the object of the Act was only to lay down ~~rules~~ the procedure in respect of action to be taken in Mysore in regard to maintenance orders made by other authorities, whereas on the other hand, they could not legislate in respect of action to be taken by another ~~power~~ authority outside their jurisdiction. The objection raised by the member could be met by employing the word 'provide' in place of the word 'facilitate', but such a ~~provision~~ change was quite unnecessary in view of the fact that under the ordinary law, a decree by an ordinary court could be enforced. In other words, it was not a new right that was going to be created, but it only facilitated the enforcement of ~~the decree to that effect~~ maintenance orders.

Thereafter, the clauses of the Bill were read one by one.

XXXXXXXXX
PREAMBLE.

The CHRIAMAN suggested that the word 'and' between t words 'dominions' and 'Protectorates' be omitted, and th words 'and the Indian States' be added after the word 'Protectorates' in both the first and second paragraphs of the preamble.

This was agreed ~~upon.~~ to.

I CLAUSE

This clause was approved.

2nd CLAUSE.

~~The CHAIRMAN suggested~~

The CHAIRMAN suggested that the words "or protectorate or of the Indian State" be added between the words "Emperor's Dominions" and "in respect" in the definition of the term "reciprocating territory'

This was agreed upon.

CLAUSE 3.

This clause was approved.

CLAUSE 4.

Mr. T. MADIAH suggested ~~suggested~~ the addition of the words "~~for Registration~~ in the prescribed manner" and omit the words "and on receipt thereof, the order shall be registered in the prescribed manner".

The CHAIRMAN stated that there must be a direction that the officer shall register. The interim order should be enquired into and registered, and a final order should be registered.

Mr. T. MADIAH wanted to know whether there would be a separate officer appointed within the meaning of that section?

The CHAIRMAN stated that the power of receiving an application might be delegated to somebody like a First Class Magistrate, and the work of registration by another, just as in the case of the operation of the Workmen's compensation Act in the Kolar Gold Fields Area.

MR. T. MADIAH stated that they could accept the copy of an order certified by the Government and not a copy of the order certified by the Court .

The CHAIRMAN stated that so long as it purported to be a copy of the order passed and when it was received by the Government, the Court would have to register it.

The clause 4 was thereupon approved unanimously.

CLAUSE 5.

Mr. T. MADIAH proposed, that instead of the words "proved to that Court" the words "apprised to that court" be added, because a person might stay at a particular place one day, and proceed to another place thereafter, with the result, that one could not give the correct whereabouts of a person and prove it before a Court. On the other hand, if he did so, he might be charged under the Indian Penal Code for giving a false deposition.

The CHAIRMAN stated that the proof might even be in the nature of a letter from the person concerned, and he believed there could not be any prosecution for such evidence under the Indian Penal Code. Moreover, this Act was not intended to be applied to persons who were renegades, and who did not possess money. Since it conferred a new right, he thought there could be no objection by anybody. That was the law prevailing in England, in the Dominions and elsewhere.

Clause 5 was thereupon approved unanimously.

CLAUSE 6.

This was approved.

Clause 7.

This was approved.

Clause 8.

This was approved.

Clause 9

This was approved.

Clause 10.

This was approved.

Clause 11.

This was approved.

Clause 12.

Mr. T. MADIAH GOWDA raised objection to the use of the words "in particular may make rules..."

The CHAIRMAN stated that such a provision was made in almost all the other enactments that had been passed so far and there was nothing new in it.

Clause 12 was thereupon approved.

The Report of the Select Committee was drafted and after signing the Report ~~of the Select Committee,~~ *the meeting terminated.*

the Select Committee on the Maintenance Orders (Enforcement) Bill.

We the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'The Indian States' in the Preamble, and the words 'Protectorates and Indian States' in the definition of 'reciprocating territory' so as to make it clear that the facilities created by the Act are available in Mysore for reciprocity with all such dominions, Protectorates or States.

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

A.V. RAMANATHAN (Chairman)
Mirle N. Lakshminaranappa
O.S.N. Sheriff
T. Madiah Gowda
H.V. Narayana Rao

REPORT of the Select Committee on the Maintenance Orders (Enforcement) Bill.

We the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'The Indian States' in the Preamble, and the words 'Protectorates and Indian States' in the definition of 'reciprocating territory' so as to make it clear that the facilities created by the Act are available in Mysore for reciprocity with all such dominions, Protectorates or States.

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

A.V. RAMANATHAN (Chairman)

Mirle N. Lakshminaranappa

O.S.N. Sheriff

T. Madiah Gowda

H.V. Narayana Rao

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Office of the Secretary,
Mysore Legislative Council,

No: 4545 L.C dated 25th March 1942

Bangalore, dated 25th March 1942.

NOTIFICATION.

Under Standing Order No.36 of the Standing Orders for the conduct of business of the Mysore Legislative Council the following report of the Select Committee on the Maintenance Order (Enforcement) Bill is published for general information.

By order,

B K Ramakrishnaiya

Secretary,
Mysore Legislative Council.

To

The Compiler, Mysore Gazette, for publication in tomorrow's (26th) Gazette and for supply of 250 spare copies.

NOTIFICATION.

Under Standing Order No.36 of the Standing Orders for the conduct of business of the Mysore Legislative Council the following report of the Select Committee on the Maintenance Order (Enforcement) Bill is published for general information:

By Order,

B C Ramakrishnaya

Secretary,
Mysore Legislative Council.

To--the Compiler, Mysore Gazette.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Office of the Secretary,
Mysore Legislative Council,

No: 454 Le dated 25th March 1942

Bangalore, dated 25th March 1942.

NOTIFICATION.

Under Standing Order No.36 of the Standing Orders for the conduct of business of the Mysore Legislative Council the following report of the Select Committee on the Maintenance Order (Enforcement) Bill is published for general information.

By order,

B K Ramakrishnaya

Secretary,
Mysore Legislative Council.

To

The Compiler, Mysore Gazette, for publication in tomorrow's (26th) Gazette and for supply of 250 spare copies.

20/3/42

NOTIFICATION.

No. Rl. 921, *dated Bangalore,*
the 11*th November* 1941.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Maintenance Orders (Enforcement) Bill, together with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,
Secretary to Government,
Law Department.

MAINTENANCE ORDERS (ENFORCEMENT) BILL.

Statement of Objects and Reasons.

Decrees for maintenance and orders under section 488 of the Criminal Procedure Code passed in one country cannot, in all cases, be enforced in another. To facilitate such enforcement of maintenance orders, an Act was passed in the United Kingdom in 1920 and in British India in 1921.

These Acts provide a simple procedure for the mutual enforcement of orders of maintenance between different parts of His Majesty's dominions and territories under His Majesty's protection.

This Bill is intended to afford facilities for such reciprocity with British India and other territories under His Majesty's protection.

The statement of general principles of a Bill drafted for a similar purpose was placed before the Representative Assembly in 1927 and the Bill was introduced in the Legislative Council the same year. But as it was discovered that the primary object of the measure, then introduced, namely, reciprocity with England, could not be had under the English Statute which did not allow of such arrangement with Indian States, no further action was taken on it. At present, reciprocity is intended primarily with British India and as there is no legal bar to such reciprocity, it is intended to secure the legal sanction for such an arrangement by enacting this measure.

The Maintenance Orders Enforcement Bill.

A Bill to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's dominions and Protectorates and *vice versa*.

Whereas it is expedient to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's dominions and Protectorates and *vice versa*;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Maintenance Orders (Enforcement) Act, 194.

(2) It extends to the whole of Mysore.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"court of summary jurisdiction" means the Court of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the place in which the maintenance order is made;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Act;

"proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies; and

"reciprocating territory" means any part of His Majesty the King Emperor's dominions in respect of which this Act for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty the King Emperor's dominions for the enforcement within that part of maintenance orders made by Courts in Mysore, the Government may by notification in the official Gazette declare that this Act applies in respect of that part of His Majesty the King Emperor's dominions and thereupon it shall apply accordingly.

(2) The Government may, by like notification, declare that this Act applies in respect of any British Protectorate, or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such Protectorate or State were a reciprocating territory.

4. Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Government, the Government shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and on receipt thereof, the order shall be registered in the prescribed manner.

Registration in Mysore of maintenance orders in other parts of His Majesty the King Emperor's dominions.

5. Where a Court in Mysore has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory the Court shall send to the Government for transmission to the proper authority of that territory, a certified copy of the order.

Transmission of maintenance orders made in Mysore.

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

Powers of summary Courts to take provisional maintenance orders against persons resident in His Majesty the King Emperor's dominions.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by him.

(3) Where such an order is made, the Court shall send to the Government for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case, the depositions shall be sent to

the Government and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order:

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the Court, after hearing the evidence, may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to ~~which~~ whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or variation, the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for the purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority for the reciprocating territory and may adjourn the proceedings.

Enforcement of maintenance orders.

8. A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court, in registering or confirming an order for maintenance in accordance with the provisions of this Act, shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

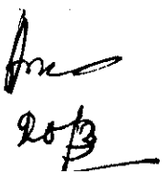
Depositions to be evidence

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in

evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.



Appendix F (4—1]
R. A. & L. C.

SUBJECT.....

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Section

File No.

Serial No.

No. 7271 h c

Diary No. of letter replied to .....

To

Notification

General and Revenue Secretariat
R. A. & L. C.
( )

under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Maintenance Orders (enforcement) Bill, and the Bill as amended by the Select Committee are published for general information

Date of issue ..8-6-42..

Signed by ..D. K. Ramakrishnaiah..

By Order

DKR

Secretary,

List of enclosures ..Three..

Copied by ....

Examined by .....

24
8.6.42

Mysore Legislative Council.

To The Compiler Mysore Gazette for publication in part IV of this gazette and for supply of 250 spare copies immediately.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 72711.C..... General and Revenue Secretariat,
Encls Two.

Dated Bangalore, ...12th June,...1942...

NOTIFICATION.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Maintenance Orders (enforcement) Bill, and the Bill as amended by the Select Committee are published for general information.

By Order,

BKR

Secretary,
Mysore Legislative Council.

To

The Compiler, Mysore Gazette for publication in Part IV of the Gazette dated 11-6-42 and for supply of 250 spare copies immediately.

Report of the Select Committee on the Maintenance Orders (Enforcement) Bill.

We the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'the Indian States' in the preamble, and the words 'Protectorates and 'Indian States' in the definition of 'reciprocating territory' so as to make it clear that the facilities created by the Act are available in Mysore for reciprocity with all such dominions, Protectorates or States.

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

A.V.RAMANATHAN (Chairman)
Mirle N. Lakshminaranappa.
O.S.N. Sheriff
T. Madiah Gowda
H.V.Narayana Rao

Mr. Belur Srinivasa Iyengar was not present at the meeting.

AKR/

NOTIFICATION.

No. 4545—*L. C., dated 25th March* 1942.

Under Standing Order No. 36 of the Standing Orders for the conduct of business of the Mysore Legislative Council the following report of the Select Committee on the Maintenance Order (Enforcement) Bill is published for general information.

By Order,

B. K. RAMAKRISHNAIYA,

Secretary,

Mysore Legislative Council.

Report of the Select Committee on the Maintenance Orders (Enforcement) Bill.

We the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'the Indian States' in the preamble, and the words 'Protectorates and Indian States' in the definition of 'reciprocating territory' so as to make it clear that the facilities created by the Act are available in Mysore for reciprocity with all such Dominions, Protectorates or States.

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

A. V. RAMANATHAN (*Chairman*).

MIRLE N. LAKSHMINARANAPPA.

O. S. N. SHERIFF.

T. MADIAH GOWDA.

H. V. NARAYANA RAO.

Mr. Belur Srinivasa Iyengar was not present at the meeting.

Printed by the Superintendent at the Government Press, Bangalore.

NOTIFICATION.

No. Rl. 921, *dated Bangalore, the* 11*th November* 1941.

Under the provisions of rule 36 of the Mysore egislative Rules, 1941, the Dewan has been pleased to rder the publication in the Gazette of the accompanying laintenance Orders (Enforcement) Bill, together with ie statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,
Secretary to Government,
Law Department.

MAINTENANCE ORDERS (ENFORCEMENT) BILL.

Statement of Objects and Reasons.

Decrees for maintenance and orders under section 488 of the :iminal Procedure Code passed in one country cannot, in all ses, be enforced in another. To facilitate such enforcement of aintenance orders, an Act was passed in the United Kingdom 1920 and in British India in 1921.

These Acts provide a simple procedure for the mutual iforcement of orders of maintenance between different parts of is Majesty's dominions and territories under His Majesty's protection.

This Bill is intended to afford facilities for such reciprocity with British India and other territories under His Majesty's protection.

The statement of general principles of a Bill drafted for a similar purpose was placed before the Representative Assembly in 1927 and the Bill was introduced in the Legislative Council the same year. But as it was discovered that the primary object of the measure, then introduced, namely, reciprocity with England, could not be had under the English Statute which did not allow of such arrangement with Indian States, no further action was taken on it. At present, reciprocity is intended primarily with British India and as there is no legal bar to such reciprocity, it is intended to secure the legal sanction for such an arrangement by enacting this measure.

As amended by the Select Committee

(omissions are shown within square brackets and additions are indicated in italics)

The Maintenance Orders Enforcement Bill.

A Bill to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's dominions and Protectorates and *vice versa*.

Whereas it is expedient to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's dominions and Protectorates and *vice versa*;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Maintenance Orders (Enforcement) Act, 194.

(2) It extends to the whole of Mysore.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"court of summary jurisdiction" means the Court of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the place in which the maintenance order is made;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

"prescribed" means prescribed by rules made under this Act;

"proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies; and

"reciprocating territory" means any part of His Majesty the King Emperor's dominions in respect of which this Act for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty the King Emperor's dominions for the enforcement within that part of maintenance orders made by Courts in Mysore, the Government may by notification in the official Gazette declare that this Act applies in respect of that part of His Majesty the King Emperor's dominions and thereupon it shall apply accordingly.

(2) The Government may, by like notification, declare that this Act applies in respect of any British Protectorate, or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such Protectorate or State were a reciprocating territory.

Registration in Mysore of maintenance orders in other parts of His Majesty the King Emperor's dominions.

4. Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Government, the Government shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and on receipt thereof, the order shall be registered in the prescribed manner.

Transmission of maintenance orders made in Mysore.

5. Where a Court in Mysore has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory the Court shall send to the Government for transmission to the proper authority of that territory, a certified copy of the order.

Powers of summary Courts to take provisional maintenance orders against persons resident in His Majesty the King Emperor's dominions.

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by him.

(3) Where such an order is made, the Court shall send to the Government for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remittted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case, the depositions shall be sent to

the Government and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction tc vary or rescind that order:

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the Court, after hearing the evidence, may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to which the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for the purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority for the reciprocating territory and may adjourn the proceedings.

Enforcement of maintenance orders.

8. A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court, in registering or confirming an order for maintenance in accordance with the provisions of this Act, shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in

evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

THE MAINTENANCE ORDERS ENFORCEMENT BILL

As amended by the Select Committee.

(*Omissions are shown within square brackets and additions are indicated in italics.*)

A Bill to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's Dominions [and], Protectorates *and Indian States* and *vice versa*.

Whereas it is expedient to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's Dominions and Protectorates and *vice versa*.

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Maintenance Orders (Enforcement) Act, 194 .

(2) It extends to the whole of Mysore.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"court of summary jurisdiction" means the Court of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the place in which the maintenance order is made;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

rescribed" means prescribed by rules made under this Act;

roper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies; and

eciprocating territory" means any part of His Majesty the King Emperor's Dominions, *Protectorates and Indian States* in respect of which this Act for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty the King Emperor's dominions for the enforcement within that part of maintenance orders made by Courts in Mysore, the Government may by notification in the official Gazette declare that this Act applies in respect of that part of His Majesty the King Emperor's dominions and thereupon it shall apply accordingly.

(2) The Government may, by like notification, declare that this Act applies in respect of any British Protectorate, or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such Protectorate or State were a reciprocating territory.

Registration in Mysore of maintenance orders in other parts of His Majesty the King Emperor's dominions.

4. Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Government, the Government shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and on receipt thereof, the order shall be registered in the prescribed manner.

Transmission of maintenance orders made in Mysore.

5. Where a court in Mysore has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory the Court shall send to the Government for transmission to the proper authority of that territory, a certified copy of the order.

Powers of summary Courts to take provisional maintenance orders against persons resident in His Majesty the King Emperor's dominions.

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by him.

(3) Where such an order is made, the Court shall send to the Government for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case, the depositions shall be sent to the Government and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order:

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the

Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the Court, after hearing the evidence, may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to which the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming

Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for the purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority for the reciprocating territory and may adjourn the proceedings.

Enforcement of maintenance orders.

8. A court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act, shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

15. ~~Statement~~ principles of the Maintenance Orders (Enforcement) Bill.

The SECRETARY to GOVT. OF INDIA, LEGISLATIVE Department (Dr. V. Vedavyasacharya) explained the ~~statement~~ principles of the Bill as follows:--

The ~~statement~~ principles of the Bill were put to vote and passed unanimously.

THE MAINTENANCE ORDER (Enforcement) BILL.

Sir,-- I beg to move that the Maintenance Orders (Enforcement) Bill as reported by the Select Committee be taken ~~it~~ into consideration.

The Bill which was referred to a Select Committee by the Council at its last session has been approved by the Select Committee almost in its entirety. The Committee has suggested only one amendment, namely, that the Bill should make it clear that the facilities created by it are available in Mysore for reciprocity with Indian States also. The Committee has therefore recommended that the preamble and the definition of the term "reciprocating territory" should both expressly contain the term "Indian States" also.

I move that the Bill be taken into consideration.

As passed by the Council

THE MAINTENANCE ORDERS ENFORCEMENT BILL

As amended by the Select Committee.

(*Omissions are shown within square brackets and additions are indicated in italics.*)

A Bill to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's Dominions [~~and~~], Protectorates *and Indian States* and *vice versa*.

Whereas it is expedient to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's Dominions and Protectorates and *vice versa*.

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Maintenance Orders (Enforcement) Act, 194 .

(2) It extends to the whole of Mysore.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"court of summary jurisdiction" means the Court of a District Magistrate;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the place in which the maintenance order is made;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

prescribed" means prescribed by rules made under this Act;

proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies; and

reciprocating territory" means any part of His Majesty the King Emperor's Dominions, *Protectorates and Indian States* in respect of which this Act for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provi sions have been made by the Legislature of any part o His Majesty the King Emperor's dominions for the en forcement within that part of maintenance orders mad by Courts in Mysore, the Government may by notificatior in the official Gazette declare that this Act applies ir respect of that part of His Majesty the King Emperor's dominions and thereupon it shall apply accordingly.

(2) The Government may, by like notification, declare that this Act applies in respect of any British Protectorate, or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such Protectorate or State were a reciprocating territory.

Registration in Mysore of maintenance orders in other parts of His Majesty the King Emperor's dominions.

4. Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Government, the Government shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and on receipt thereof, the order shall be registered in the prescribed manner.

Transmission of maintenance orders made in Mysore.

5. Where a court in Mysore has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory the Court shall send to the Government for transmission to the proper authority of that territory, a certified copy of the order.

Powers of summary Courts to take provisional maintenance orders against persons resident in His Majesty the King Emperor's dominions.

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by him.

(3) Where such an order is made, the Court shall send to the Government for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case, the depositions shall be sent to the Government and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order:

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Government and it appears to the

Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the Court, after hearing the evidence, may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to which the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming

Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for the purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority for the reciprocating territory and may adjourn the proceedings.

Enforcement of maintenance orders.

8. A court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act, shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

~~Printed by the Superintendent at the Government Press, Bangalore.~~

D. H. Chandrasekharaiya
President, Legislative Council.

Subject:- Promulgation of the Maintenance Orders Enforcement Bill.

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On the 30th of September 1941, His Highness was graciously pleased to approve of action being taken to enact the Maintenance Orders Enforcement Bill. The Bill was accordingly placed before the R.A. in October 1941 and approved by that Chamber. The Bill was thereafter introduced in the Legislative Council in December and was referred to a Select Committee. The Bill as reported by the Select Committee was considered by the Legislative Council during its present Session and was passed by it.

A copy of the Bill as finally passed by the Council and signed by the President is submitted to His Highness the Maharaja under Standing Order 45 of the Legislative Council Standing Orders.

I solicit the gracious sanction of His Highness to promulgate the Bill into law.

MINISTER FOR LAW.

19.6.42.

D.S.N.

I submit herewith a Final Note by the Minister for Law on the subject of the Maintenance Orders Enforcement Bill, for His Highness's gracious approval.

DEWAN.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. Legis 7-42-1 Dated, Bangalore, 10th July 1942

Ordered that the accompanying Maintenance Orders (Enforcement) Act, 1942,

which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXVIII of 1942, in the *Mysore Gazette*, for general information.

General Secretary to Government.
Law Department

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

copy to the Translation Section

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Order No. Legis. 7-42-1. 7-42-1

Dated, Bangalore, 20th July 1942.

Ordered that the accompanying Maintenance Orders (Enforcement) Act, 1942, which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXVIII of 1942, in the Mysore Gazette, for general information.

Secretary to Government,
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B.

Bar of suits and other legal proceedings.

[(10)] *9.* In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi), the following word and clause shall be added, namely :—

"and

(vii) the repaying capacity of the debtor."

10. For sub-section (1) of section 18 of the said Act, the following sub-section shall be substituted namely :—

"18(1). *If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section* (1) *of section* 9, *or any amount due in accordance with the terms of an agreement registered under sub-section* (3) *of section* 14, *such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within* 90 *days from the date of default accompained by a certificate from the Board regarding the amount due.*

Amendment of section 19, Act VI of 1997.

11. *In sub-section* (3) *of section* 19, *for the words, figures and brackets "sub-section* (2) *of section* 14", *the words, figures and brackets "sub-section* (3) *of section* 14" *shall be substituted.*

No. 7271—*L. C., dated Bangalore, the* 8*th June* 1942.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Maintenance Orders (Enforcement) Bill, and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Maintenance Orders (Enforcement) Bill.

We, the members of the Select Committee to whom the Maintenance Orders (Enforcement) Bill was referred have considered the Bill and suggested the addition of the words 'The Indian States' in the Preamble, and the words 'Protectorates and Indian States' in the definition of "reciprocating territory" so as to make it clear that the facilities created by the Act are available in Mysore for reciprocity with all such Dominions, Protectorates or States.

We approve of the Bill with these small additions. As the Bill has not undergone any material alterations, we do not think it is necessary to republish the Bill in the Gazette.

A. V. Ramanathan (*Chairman*).
Mirle N. Lakshminaranappa.
O. S. N. Sheriff.
T. Madiah Gowda.
H. V. Narayana Rao.

XVIII
53
Act No XXIX of 1942.

THE MAINTENANCE ORDERS ENFORCEMENT ~~BILL~~ Act, 1942

(Received the assent of His Highness the Maharaja on the 7th day of July 1942)

~~As amended by the Select Committee.~~

(*Omissions are shown within square brackets and additions are indicated in italics.*)

An ~~Bill~~ Act to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's Dominions, ~~[and]~~, Protectorates *and Indian States* and *vice versa*.

Whereas it is expedient to facilitate the enforcement in Mysore of maintenance orders made in His Majesty the King Emperor's Dominions and Protectorates and *vice versa*.

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Maintenance Orders (Enforcement) Act, 194 [ ].

(2) It extends to the whole of Mysore.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"court of summary jurisdiction" means the Court of a District Magistrate ;

"dependants" means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the place in which the maintenance order is made ;

"maintenance order" means a decree or order other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made ;

'prescribed" means prescribed by rules made under this Act ;

'proper authority" means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies ; and

'reciprocating territory" means any part of His Majesty the King Emperor's Dominions, *Protectorates and Indian States* in respect of which this Act for the time being applies.

Reciprocal arrangements.

3. (1) If the Government are satisfied that provisions have been made by the Legislature of any part of His Majesty the King Emperor's dominions for the enforcement within that part of maintenance orders made by Courts in Mysore, the Government may by notification in the official Gazette declare that this Act applies in respect of that part of His Majesty the King Emperor's dominions and thereupon it shall apply accordingly.

(2) The Government may, by like notification, declare that this Act applies in respect of any British Protectorate, or in respect of any State in India, and where such a declaration has been made, this Act shall apply as if such Protectorate or State were a reciprocating territory.

Registration in Mysore of maintenance orders in other parts of His Majesty the King Emperor's dominions.

4. Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the Government, the Government shall send a copy of the order to the prescribed officer of a Court in Mysore for registration, and on receipt thereof, the order shall be registered in the prescribed manner.

Transmission of maintenance orders made in Mysore.

5. Where a court in Mysore has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory the Court shall send to the Government for transmission to the proper authority of that territory, a certified copy of the order.

Powers of summary Courts to take provisional maintenance orders against persons resident in His Majesty the King Emperor's dominions.

6. (1) Where application is made to a Court of summary jurisdiction in Mysore for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

(2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by him.

(3) Where such an order is made, the Court shall end to the Government for transmission to the proper uthority of the reciprocating territory in which the per- on against whom the order is made is alleged to reside, ıe depositions so taken and a certified copy of the order ogether with a statement of the grounds on which the ıaking of the order might have been opposed if the per- on against whom the order is made had been duly served ith a summons and had appeared at the hearing and ıch information as the Court possesses for facilitating ıe identification of that person and ascertaining his hereabouts.

(4) Where any such provisional order has come fore a Court in a reciprocating territory for confirma- on, and the order has by that Court been remitted to e Court of summary jurisdiction which made the order r the purpose of taking further evidence, that Court all, after giving the prescribed notice, proceed to take e evidence in like manner and subject to the like condi- ons as the evidence in support of the original application.

(5) If it appears to the Court hearing such evidence at the order ought not to have been made, the Court ıy rescind the order, but in any other case, the ositions shall be sent to the Government and dealt ;h in like manner as the original depositions.

(6) The confirmation of an order made under this tion shall not affect any power of a Court of summary isdiction to vary or rescind that order:

Provided that, on the making of a varying or rescind- ing order, the Court shall send a certified copy thereof to the Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of Mysore

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed, by a Court of summary jurisdiction in Mysore and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been ransmitted to the Government and it appears to the

Government that the person against whom the order has been made is resident in Mysore, the Government may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Mysore, confirm the order either without modification or with such modifications as to the Court, after hearing the evidence, may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to which the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming

Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for the purpose send a certified copy of the record to the Government for transmission to that Court through the proper authority for the reciprocating territory and may adjourn the proceedings.

Enforcement of maintenance orders.

8. A court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act, shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Mysore shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The Government may make rules for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

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Printed by the Superintendent at the Government Press, Bangalore.